

REMARKS

In the Office Action¹, the Examiner rejected claims 24 and 25 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, and rejected claims 1-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,154,854 to Zweig et al. ("Zweig"). By the present amendment, Applicant has amended claims 24 and 25. Claims 1-25 remain pending in this application.

I. Rejection of claims 24 and 25 under 35 U.S.C. § 101

The Examiner rejected claims 24 and 25 under 35 U.S.C. §101 alleging that the claims are "directed to the program itself." Office Action, page 2. Applicant respectfully traverses this rejection. However, to advance prosecution, Applicant has amended claims 24 and 25 to recite a "computer-readable storage medium containing instructions which, when executed on a data processor, cause the data processor to perform a method." Thus, claims 24 and 25 are directed to statutory subject matter.

The amendments are consistent with the guidelines provided in the M.P.E.P. Specifically, the M.P.E.P. states:

Computer programs are often recited as part of a claim. USPTO personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture of machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. See M.P.E.P. § 2106.01 (emphasis added).

In view of the foregoing, Applicant submits that claims 24 and 25 squarely fall within the categories of patentable subject matter. Accordingly, Applicant respectfully

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

requests reconsideration and withdrawal of the rejection of claims 24 and 25 under 35 U.S.C. §101.

II. Rejection of claims 1-25 under 35 U.S.C. § 102(e) as being anticipated by *Zweig*

Applicant respectfully traverses the rejection of claims 1-25 under 35 U.S.C. § 102(e) as anticipated by *Zweig*. In order to properly establish that *Zweig* anticipates Applicant's claimed invention under 35 U.S.C. § 102, each and every feature of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites a method comprising, for example:

receiving a first message including a first integer;
sending a second message including a second integer, the second
message sent in response to the first message;
receiving, in response to the second message, a third message
including data and a third integer, the third integer serving to
authenticate the third message; and

(Emphasis added). *Zweig* does not disclose or even suggest the above features of Applicant's claimed invention.

Zweig discloses a system in which "a WU [wireless unit] associates itself with one of the APs [access points] to communicate with the wired backbone network 102" (col. 7, lines 24-26). In another part of *Zweig* it is explained:

as information from wireless units (WU) is received by the wireless transceiver 210, the logic 202 monitors addresses within this information against the contents of the address table 204 . One reason is that only information from

authenticated and associated wireless units (e.g., WUs 108 c-d) is accepted. Hence, if a non-authenticated wireless unit transmits packets, these packets will not be forwarded to the wired backbone network 102 of FIG. 1. The logic 202 subsequently transmits the information to the logic 200 for routing to the wired backbone network 102. (Emphases added) (col. 6, line 62-col. 7, line 4).

Thus, logic 202 of *Zweig* authenticates an associated wireless unit based on the information received. However, such a disclosure does not constitute “receiving, in response to the second message, a third message including data and a third integer, the third integer serving to authenticate the third message,” (emphasis added) as recited in claim 1. In particular, such a disclosure does not teach or suggest to “authenticate the third message,” because at most *Zweig* discloses authenticating the associated wireless unit and does not teach authenticating the information received.

On page 4 of the Office Action, the Examiner cites to column 6, lines 62-67 of *Zweig* for allegedly teaching the above-recited features of claim 1. However, this is not correct. As noted above, *Zweig* discloses authenticating associated wireless units and does not teach to “authenticate the third message,” as recited in claim 1. Moreover, even assuming that authentication of wireless units in *Zweig* could constitute Applicant’s claimed features of “to authenticate” which Applicant does not concede, *Zweig* does not teach to authenticate the “third message.” This is because *Zweig* merely discloses receiving information from a wireless unit but does not disclose “a first message,” “a second message,” “receiving, in response to the second message, a third message,” and then authenticating the “third message,” as recited in claim 1. The Examiner has cited column 13, lines 12-20 of *Zweig* to allegedly correspond to the claimed “first message” and “second message,” and cited column 6, lines 62-67 to allegedly

correspond to the claimed "third message," without linking the second message with the third message as recited in claim 1. Therefore, at most *Zweig* teaches authenticating a wireless unit and does not teach or even suggest "receiving, in response to the second message, a third message including data and a third integer, the third integer serving to authenticate the third message," (emphasis added) as recited in claim 1.

Therefore *Zweig* cannot anticipate claim 1. Thus, claim 1 is allowable for at least this reason. Claims 2-12 are also allowable at least due to their depending from claim 1.

Independent claims 15, 16 and 24, while of different scope, recite features similar to those of claim 1 and are thus allowable over *Zweig* for at least reasons similar to those discussed above in regard to claim 1. Claims 17-22 are also allowable at least due to their dependence from claim 16.

Regarding independent claims 13, 14, 23, and 25, the Examiner cites to column 13, lines 16-20 of *Zweig* for allegedly teaching "receiving, in response to the clear to send message, a data message including the second integer, the second integer serving to authenticate the data message," as recited in claims 13, 14, 23, and 25. However, this is not correct. *Zweig* discloses that "[i]f the logic circuit 604 receives the CTS packet from the associated AP within the pre-determined time interval, then the logic circuit 604 transmits the corresponding data packet during the reserved time slot following the receipt of the CTS packet," (column 13, lines 16-20). Such a disclosure does not constitute "the second integer serving to authenticate the data message," as recited in claims 13, 14, 23, and 25. Neither the cited portion of *Zweig* nor any other portion of *Zweig* discloses or even suggests "receiving, in response to the clear to send

message, a data message including the second integer, the second integer serving to authenticate the data message," (emphasis added) as recited in claims 13, 14, 23, and 25. For at least this reason *Zweig* cannot anticipate claims 13, 14, 23, and 25. Thus, claims 13, 14, 23, and 25 are allowable.

Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) is therefore respectfully requested and deemed appropriate.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of all pending claims. As demonstrated above, Applicant's claims are neither anticipated nor rendered obvious by the prior art references cited against this application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

By: _____

Jeffrey A. Berkowitz
Reg. No. 36,743

(Philip J.
Hoffman
46,340)

Dated: July 1, 2008

Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001-4413
(202) 408-4000